

NICHOLAS SCHWEMLER.

JANUARY 27, 1904.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MIERS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 4391.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4391) granting an increase of pension to Nicholas Schwemler, submit the following report:

This bill proposes to increase the pension of the soldier named therein from \$12 to \$50 per month.

This soldier, now 67 years of age, served as private and sergeant in Company H, Second Michigan Infantry, from May 25, 1861, to July 21, 1864, when honorably discharged.

Medical records of the War Department show that he was under treatment for typhoid fever from March 2, 1862, to June 9, 1863.

He is now pensioned at \$12 per month under the act of June 27, 1890, for total disability, the result of disease of right thigh, asthma, and double inguinal hernia.

He first applied for pension under the general law in March, 1879, alleging abscess of the left kidney and right knee as a result of typhoid fever, and upon due proof he was pensioned in 1887 for abscesses, results of typhoid and intermittent fever, at \$2 per month from the date of his discharge. This pension was made to terminate August 4, 1880, the disability having ceased to exist, the medical examination of August 12, 1880, having shown that all the disability found was a small cicatrix over the spine near the sacrum and a cicatrix 2 inches above the right knee joint; that he, however, had a seton below the knee, which he keeps open with a pea.

Claims for restoration were rejected in 1891, 1895, and 1902 on the ground that a ratable degree of disability had not been shown since the date of dropping.

It appears that the soldier was operated upon for the abscess of the right leg above the knee of accepted service origin, and that the surgeon opened the calf of the same leg with a Spanish fly so as to run off all impure matter; that he was advised by the physician to keep this leg open by putting a pea into it every day, and that the abscess was operated on about 1870, when it healed up.

In 1894 the knee of the right leg began swelling again, and caused trouble at the old sore, which had been considered well up to that date, resulting in abscesses, and the physician who treated him from Decem-

ber, 1894, testified that the opening which he had below the knee (the seton) was an entirely superficial affair; that the abscesses were probably the result of a much-hidden piece of old dead bone or a tubercular abscess of the knee.

One physician, who treated the soldier since 1894, expressed the opinion that the recurrent abscesses may possibly be the results of the typhoid fever for which the soldier was treated during the service.

The Pension Bureau, however, held that the soldier was now suffering from necrosis of the femur and that pus was discharging from three points upon the right leg, that the history of the case showed that the abscesses for which he had been pensioned healed some twenty-four years prior to his present trouble, and that there was no reason whatever to attribute the sore which came on in 1894 to the abscesses twenty-four years prior thereto nor to the fever which occurred during his army service.

When last examined, on April 3, 1902, the board of surgeons stated that the soldier had a stroke of apoplexy in January, 1902; that the apoplexy resulted in loss of speech and paralysis of the left arm; that he had regained the speech, however, and the condition of the arm was improving; that there was an abscess above the right knee and numerous ones on the lower third of the thigh just above the knee joint, varying in size from one-half to 3 inches in length, all of which were discharging very freely; that upon probing, necrosis of the femur was found; that the cause for the same could not be ascertained, and for this condition of the knee the board of surgeons rated him \$17. The board also found a double hernia for which they rated him \$14; slight atrophy of the forearm due to the apoplexy, for which rated \$4, and \$4 for varicose veins of the right leg, and the board further stated that general and senile debility was well marked; that he had walked on crutches since 1895, being unable to rest his weight on his right leg; that he was emaciated and anæmic and totally disabled for manual labor.

Proof filed with your committee shows that the beneficiary has scarcely any income and that he has a wife dependent upon him for support, who is also in feeble health; and medical testimony also so filed sets forth that two operations had been performed on his leg for abscesses and that the leg would have been amputated had the soldier's general condition allowed such procedure; that his present condition is at least as bad as if the leg had been amputated, if not worse, and that, in the opinion of the physician, the most probable cause for this trouble was exposure during the war of the rebellion.

While there are doubts as to whether the abscess of 1894 was a result of the fever, and resulting abscesses of service origin, and which abscesses healed, as shown above, your committee believes that such doubts should be resolved in favor of the beneficiary to the extent of increasing his pension to \$24 per month.

The passage of the bill is therefore recommended when the same shall have been amended as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Nicholas Schwemler, late of Company H, Second Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of twenty-four dollars per month in lieu of that he is now receiving.